
HOUSE BILL No. 1907

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3; IC 22-2-13.

Synopsis: Interest, dividends, and employer savings plans. Exempts interest and \$1,000 of dividend income of individuals and estates from taxation under the adjusted gross income tax. Requires an employer that employs at least 50 employees and offers its employees a self-directed retirement savings plan or a deferred compensation plan to provide at least one allocation savings option.

Effective: July 1, 2003; January 1, 2004.

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January 23, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1907

A BILL FOR AN ACT to amend the Indiana Code concerning production of income.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.192-2002(ss),
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2004]: Sec. 3.5. When used in this article, the term
4 "adjusted gross income" shall mean the following:

5 (a) In the case of all individuals, "adjusted gross income" (as
6 defined in Section 62 of the Internal Revenue Code), modified as
7 follows:

8 (1) Subtract income that is exempt from taxation under this article
9 by the Constitution and statutes of the United States.

10 (2) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 62 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States.

14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
15 joint return filed by a husband and wife, subtract for each spouse
16 one thousand dollars (\$1,000).

17 (4) Subtract one thousand dollars (\$1,000) for:



- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code for taxable years beginning after December 31,
- 13 1996; and
- 14 (B) five hundred dollars (\$500) for each additional amount
- 15 allowable under Section 63(f)(1) of the Internal Revenue Code
- 16 if the adjusted gross income of the taxpayer, or the taxpayer
- 17 and the taxpayer's spouse in the case of a joint return, is less
- 18 than forty thousand dollars (\$40,000).
- 19 This amount is in addition to the amount subtracted under
- 20 subdivision (4).
- 21 (6) Subtract an amount equal to the lesser of:
- 22 (A) that part of the individual's adjusted gross income (as
- 23 defined in Section 62 of the Internal Revenue Code) for that
- 24 taxable year that is subject to a tax that is imposed by a
- 25 political subdivision of another state and that is imposed on or
- 26 measured by income; or
- 27 (B) two thousand dollars (\$2,000).
- 28 (7) Add an amount equal to the total capital gain portion of a
- 29 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 30 Internal Revenue Code) if the lump sum distribution is received
- 31 by the individual during the taxable year and if the capital gain
- 32 portion of the distribution is taxed in the manner provided in
- 33 Section 402 of the Internal Revenue Code.
- 34 (8) Subtract any amounts included in federal adjusted gross
- 35 income under Section 111 of the Internal Revenue Code as a
- 36 recovery of items previously deducted as an itemized deduction
- 37 from adjusted gross income.
- 38 (9) Subtract any amounts included in federal adjusted gross
- 39 income under the Internal Revenue Code which amounts were
- 40 received by the individual as supplemental railroad retirement
- 41 annuities under 45 U.S.C. 231 and which are not deductible under
- 42 subdivision (1).

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(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) ~~Add~~ **Subtract** an amount equal to the interest ~~excluded from included in the individual's~~ federal **adjusted** gross income. ~~by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.~~

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Subtract not more than:

(A) one thousand dollars (\$1,000) of dividend income included in the taxpayer's federal adjusted gross income,

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if the taxpayer files an individual return; or
(B) two thousand dollars (\$2,000) of dividend income
included in the taxpayer's federal adjusted gross income,
if the taxpayer files a joint return.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

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(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by:

(1) income that is exempt from taxation under this article by the Constitution and statutes of the United States; ~~and~~

(2) an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack;

(3) an amount equal to the interest included in the taxpayer's federal adjusted gross income; and

(4) not more than one thousand dollars (\$1,000) of dividend income included in the taxpayer's federal adjusted gross income.

SECTION 2. IC 6-3-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2.2. (a) Interest income and other receipts from assets in the nature of loans or installment sales contracts that are primarily secured by or deal with real or tangible personal property are attributable to this state if the security or sale property is located in Indiana.

(b) Interest income and other receipts from consumer loans not secured by real or tangible personal property are attributable to this state if the loan is made to a resident of Indiana, whether at a place of business, by a traveling loan officer, by mail, by telephone, or by other electronic means.

(c) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property are attributable to this state if the proceeds of the loan are to be applied in Indiana. If it cannot be determined where the funds are to be applied, the income and receipts are attributable to the state in which the business applied for the loan. As used in this section, "applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.



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(d) Interest income, merchant discount, and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees are attributable to the state to which the card charges and fees are regularly billed.

(e) Receipts from the performance of fiduciary and other services are attributable to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one (1) state, the receipts from those benefits are attributable to this state on a pro rata basis according to the portion of the benefits consumed in Indiana.

(f) Receipts from the issuance of traveler's checks, money orders, or United States savings bonds are attributable to the state in which the traveler's checks, money orders, or bonds are purchased.

(g) Receipts in the form of dividends from investments are attributable to this state if the taxpayer's commercial domicile is in Indiana.

(h) Interest is not attributable to this state if the taxpayer is a nonresident person.

SECTION 3. IC 6-3-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 18. (a) As used in this section, "eligible medical expense" has the meaning set forth in IC 6-8-11-3.

(b) As used in this section, "medical care savings account" has the meaning set forth in IC 6-8-11-6.

(c) Except as provided in subsection (g), the amount of money deposited by an employer in a medical care savings account established for an employee under IC 6-8-11 is exempt from taxation under IC 6-3-1 through IC 6-3-7 as income of the employee in the taxable year in which the money is deposited in the account.

(d) Except as provided in subsection (g), the amount of money that is:

(1) withdrawn from a medical care savings account established for an employee under IC 6-8-11; and

(2) either:

(A) used by the administrator of the account for a purpose set forth in IC 6-8-11-13; or

(B) used under IC 6-8-11-13 to reimburse an employee for eligible medical expenses that the employee has incurred and paid for medical care for the employee or a dependent of the employee;

is exempt from taxation under IC 6-3-1 through IC 6-3-7 as income of the employee.

(e) Except as provided in IC 6-8-11-11, in each taxable year, the

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1 amount of money that is:

2 (1) withdrawn by an employee from a medical care savings
3 account established under IC 6-8-11; and

4 (2) used for a purpose other than the purposes set forth in
5 IC 6-8-11-13;

6 is income to the employee that is subject to taxation under IC 6-3-1
7 through IC 6-3-7.

8 (f) If an employee withdraws money from the employee's medical
9 care savings account under the circumstances set forth in
10 IC 6-8-11-17(c), the interest earned on the balance in the account
11 during the full tax year in which the withdrawal is made is **not** subject
12 to taxation under IC 6-3-1 through IC 6-3-7 as income of the employee.

13 (g) A taxpayer that excluded or deducted an amount deposited into
14 a medical care savings account from adjusted gross income under:

15 (1) section 106 of the Internal Revenue Code;

16 (2) section 220 of the Internal Revenue Code; or

17 (3) any other section of the Internal Revenue Code;

18 is not eligible for an additional exemption from adjusted gross income
19 under this section.

20 SECTION 4. IC 6-3-4-9 IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JANUARY 1, 2004]: Sec. 9. All individuals,
22 corporations, limited liability companies, partnerships, fiduciaries, or
23 associations, in whatever capacity acting, including but without being
24 limited to, lessees or mortgagors of real or personal property,
25 fiduciaries, and employers making payment to other persons of interest,
26 rent, wages, salaries, premiums, annuities, compensation,
27 remunerations, emoluments, other fixed or determinable means, profits
28 and income, or corporate liquidation distributions shall make returns
29 to the department setting forth the amount of such payments and the
30 name and address of the recipient of such payment at such time or
31 times in such manner, and on such forms as prescribed by the
32 department. **However, a payment solely of interest owed to a person
33 is not subject to the return requirements of this section.**

34 SECTION 5. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS
35 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
36 JANUARY 1, 2004]:

37 **Chapter 13. Asset Allocation Savings Options**

38 **Sec. 1. This chapter applies to an employer to the extent allowed
39 under federal law.**

40 **Sec. 2. This chapter does not apply to an employer that employs
41 an average of less than fifty (50) full-time employees in a calendar
42 year.**

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1 **Sec. 3. As used in this chapter, "asset allocation savings option"**
 2 **means a savings program:**

- 3 (1) with a pre-defined mix of multi-asset investment options
 4 managed in accordance with the plan participant's time
 5 horizon, return expectations, and risk tolerance; and
 6 (2) in which the plan participant's investment portfolio is
 7 regularly balanced to maintain the predefined asset allocation
 8 mix selected by the plan participant.

9 **Sec. 4. As used in this chapter, "full-time employee" has the**
 10 **meaning set forth in IC 6-3.1-13-4.**

11 **Sec. 5. An employer that offers its employees either a**
 12 **self-directed retirement savings plan or a deferred compensation**
 13 **plan must provide each of its employees at least one (1) asset**
 14 **allocation savings option for the plan.**

15 **Sec. 6. The asset allocation savings option may not remove any**
 16 **other investment options available to the employee before the asset**
 17 **allocation savings option is provided.**

18 **Sec. 7. The asset allocation savings option may be:**

- 19 (1) a prepackaged allocation established by an investment
 20 adviser or investment adviser representative registered under
 21 IC 22-2-12; or
 22 (2) a self-directed asset allocation option in which the plan
 23 participant makes the initial allocation decision.

24 **Sec. 8. The department of labor shall enforce this chapter**
 25 **through an administrative proceeding subject to IC 4-21.5.**

26 **Sec. 9. The department of labor may require an employer to**
 27 **provide the department with reports necessary to determine**
 28 **whether the employer is complying with this chapter.**

29 **Sec. 10. The department of labor may inspect the premises and**
 30 **records of employers as necessary to determine whether the**
 31 **employer is complying with this chapter.**

32 **Sec. 11. The department of labor may adopt rules under**
 33 **IC 4-22-2 and prescribe forms to implement this chapter.**

34 **SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 6-3-1-3.5,**
 35 **IC 6-3-2-2.2, IC 6-3-2-18, and IC 6-3-4-9, all as amended by this**
 36 **act, apply only to taxable years beginning after December 31, 2003.**

37 **(b) The department of labor may adopt temporary rules, in the**
 38 **manner provided for the adoption of emergency rules under**
 39 **IC 4-22-2-37.1, to implement IC 22-2-13, as added by this act. A**
 40 **temporary rule adopted under this subsection expires on the**
 41 **earliest of the following:**

- 42 (1) The date that the department adopts a permanent rule

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- 1 under IC 4-22-2 to supersede a rule adopted under this
- 2 subsection.
- 3 (2) The date that the department adopts another rule under
- 4 this subsection to supersede a rule previously adopted under
- 5 this subsection.
- 6 (3) January 1, 2005.

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